

PLANNING COMMISSION MINUTES

May 3, 2011

7:00 p.m.

Present: Chairman Tom Smith, Vice Chairman Dave Badham, Von Hill, Sean Monson, Michael Allen, City Prosecutor J.C. Ynchausti, City Engineer Paul Rowland, City Planner Aric Jensen, Youth Council Representative Jasilyn Brinkerhoff and Recording Secretary Connie Feil.

Absent: Barbara Holt, City Attorney Russell Mahan and City Council Representative Beth Holbrook.

Chairman Tom Smith welcomed all those present.

Dave Badham made a motion to approve the minutes for April 19, 2011 as written. Sean Monson seconded the motion and voting was unanimous in favor.

1. Consider an amended commercial site plan approval for 500 W. 2600 S., Colonial Square, Sean Macklyn, applicant.

Sean Macklyn, representing the business owners association, was present. Aric Jensen explained that the business owners association at the Square at 2600 South (Colonial Square) would like to amend their existing landscape plan to relocate the street trees located along 2600 South. A letter explaining their reasoning for relocating the trees was submitted and will be attached to the minutes. The letter states that the trees block the visibility of their new pole sign.

Mr. Jensen explained that Staff has reviewed the letter and photo submitted, and conducted a field inspection of the site. The findings were that the sign is partially obscured by the trees, especially when coming from the west. Staff disagrees with the proposal to relocate all of the trees, on the basis that street trees are a required site plan element. Staff's recommendation is that approximately every other tree be relocated, thus opening visibility windows while still maintaining the aesthetic benefit of the trees.

Mr. Jensen made an aerial photo/power point presentation showing the entrance to the parking, the pole sign and the location of the trees in question.

Sean Macklyn explained that the association would like to have the trees removed so there is better visibility for the sign. He has had discussions with the association and if they can't remove all or most of the trees, then they would like to remove the two trees that block the sign. They are willing to transplant the trees in the fall to a location in the parking area.

There was a brief discussion regarding the trees in question, how many trees should be removed and where to relocate the trees. The commission supported the idea of removing two trees on 2600 S. for a better visual area of the pole sign and placing them in the parking area.

Von Hill made a motion to permit the relocation of two trees closest to the pole sign on the east. Sean Monson seconded the motion and voting was unanimous in favor.

2. PUBLIC HEARING – Consider a rezone for 3985 S. & 4001 S. Bountiful Blvd. from R-F (single Family Foothill) to R-3 (Single Family 3 units/acre) Mel Christofferson & Michael Nielsen, applicants.

Clark Jenkins, agent for the applicants, was present. Aric Jensen explained that Clark Jenkins is requesting a zone map amendment from Single-Family Foothill (R-F) to Single Family 3 Units per Acre (R-3), for the properties located at 3985 S. and 4001 S. Bountiful Blvd. At the previous Commission meeting on April 19, 2011, the public hearing was opened and several persons spoke. One of the individuals who spoke, Mr. Gregory Steffens, owns a parcel of land to the southeast of the subject property. He claimed that he has an easement that accesses his property through the subject property. A copy of the claimed easement, provided by Mr. Nielsen, as prepared by Associated Title in 1991, will be attached to the minutes.

Staff has reviewed the easement and determined that the easement doesn't affect the rezone, but it could affect the creation of a subdivision plat.

Staff recommends approval of an ordinance rezoning only the lower portion of the property to the R-3 zone, with the dividing point to be the 30% slope boundary, with the following findings:

1. The subject property is composed of both bench topography and mountain topography.
2. There is a distinct dividing point between the bench and mountain areas.
3. The areas of bench topography should be developed consistent with adjacent areas of bench topography.
4. The R-3 Zone would allow for development densities consistent with other, previously developed bench areas.
5. The areas of mountain topography need the regulations and protections afforded by the current R-F zoning designation.
6. The areas of the property with average slopes greater than 30% should remain within the R-F zoning designation.

And with the following conditions:

1. This rezone is specifically conditioned upon the subject properties being developed as a single parcel. In the event that future development is proposed that does not encompass the entire area contained within the subject properties, the zoning of the entire area of the subject properties reverts to R-F.
2. The subdivision shall contain a maximum of five (5) lots, two (2) of which shall contain the existing Christofferson and Nielsen homes, and three (3) of which

shall be new building lots whose buildable areas shall be located completely within the area rezoned R-3.

3. In any future subdivision of this subject properties, the upper land within this parcel which retains its R-F Zone designation, shall be allotted as part of the five lots on the lower land now being rezoned as R-3.
4. There shall be no remainder parcel or parcels of land.
5. Any future subdivision or development of the subject properties shall be reviewed, conducted, approved in accordance with the requirements of the Bountiful Land Use Ordinance and State Law.

The public hearing was opened for all those with comments or concerns.

The public hearing was closed without any comments.

The commission discussed and reached a consensus to rezone the lower portion of property, which could be developed similar to the surrounding properties. Any easements should be addressed at subdivision approval.

Michael Allen made a motion to recommend to the City Council approval of the rezone with the findings and conditions outlined by Staff. Dave Badham seconded the motion and voting was unanimous in favor.

3. PUBLIC HEARING – Consider amending the existing Bountiful City Ordinance 2007-04 to allow construction of the remaining townhomes without the required commercial building on the property located at 2084 S. Orchard Dr., Matt Carter, applicant.

Matt Carter, applicant, was present. Aric Jensen explained that in 2007 Matt Carter successfully rezoned the subject property to the Mixed-Use zone, which allows a mix of residential and commercial uses within a development. As part of that process, an ordinance was created and adopted that set forth specific development and performance standards. One of the performance standards was that:

(B) The full development approved herein must be constructed. Building permits shall not be issued for the last twenty five percent (25%) of the residential units before the building permit for the commercial building has been issued and construction commenced.

Mr. Jensen made an aerial photo/power point presentation while explaining the history of the property. As of this time, the first fifteen units (75% of the total) have been constructed, but work has not begun on the commercial structure. The owners' request is that they be allowed to construct the final five units before they build the commercial building, for the reasons stated in their letter, which will be attached to the minutes.

Mr. Jensen stated that the best course of action for both the City and the property owners is probably to allow the last five residential units to be built prior to the construction of the commercial building, for the following reasons:

1. There is already a surplus of commercial space in the area, as evidenced by the poor performance of the corner strip center and the class of tenants in the adjacent properties. Building additional commercial square footage will only exacerbate the situation.
2. At the time the ordinance was originally approved, it was determined that the relatively high profit on the residential units could subsidize the construction and rental rates of the commercial building until such a time that commercial demand and rental rates reached profitable levels. However, with the economic downturn, sales prices of the residential units dropped to the point that there was no profit realized to subsidize the commercial building.
3. Lastly, staff has concluded that it is in the City's best interest to have the residential units completed and inhabited with citizens who support local businesses, pay utility fees, support the homeowner's association, and otherwise contribute to the community. By holding hard and fast to the existing ordinance, neither the residential units nor the commercial building will be built, and the City loses in both regards.

Staff recommends amending Ordinance 2007-04 by removing the following language from Section 3 (B), for the reasons stated in the letter and in the staff report.

Building permits shall not be issued for the last twenty five percent (25%) of the residential units before the building permit for the commercial building has been issued and construction commenced.

Matt Carter explained that the existing businesses surrounding this property are struggling and the demand for commercial does not exist in this area.

The public hearing was opened for all those present with commends and concerns.

Gary Lindeberg, residing at 2057 S. Penman Lane, stated that the commercial was to be finished before the residential was to begin. Nothing has changed to allow for the residential first and should not be approved. Adding the additional residential units or the commercial will not affect his property, it is the principle of the matter.

Claudia Lindeberg, residing at 2057 S. Penman Lane, is unhappy with the whole complex.

Greg Harrison, who owns the apartments to the north, has concerns about the retaining wall at the end of the parking on the north side of the property. He feels that it was not installed properly so the water drains runs down onto his property and has concerns that the wall will slip. There is an issue with the head lights shining into the bedroom windows of his renters on the north side. He also has concerns with a large tree pushing down the fence.

Elonore Brainard, residing at 2080 S. Orchard Dr., loves living in the complex but at times there is a parking problem. Ms. Brainard suggested that the commercial area should be build into townhomes.

The public hearing was closed without further comments.

There was a lengthy discussion regarding the retaining wall, large tree, parking issues, and some type of device to shield the lights from the parking cars.

Michael Allen made a motion to table this item until May 17, 2011 to allow for more research on the issues discussed. Von Hill seconded the motion and voting was unanimous in favor.

4. Consider an approval of a Conditional Use Permit Letter, in written form, for T-Mobile located at 600 E. 400 N., Jared White, applicant.

Aric Jensen explained that at the last meeting he was asked to bring back the Conditional Use Permit letter with a map showing the location of the tower and to revise the wording. Mr. Jensen presented the revised letter showing the location of the tower for approval.

Von Hill made a motion to approve the Conditional Use Permit Letter as written. Sean Monson seconded the motion and voting was unanimous in favor.

5. Planning Director's report and miscellaneous business.

There was no business to be discussed.

Meeting adjourned at 8:10 p.m.